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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: LIN 02 261 52456

Office: NEBRASKA SERVICE CENTER

Date:

MAR 13 2003

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(i) of the Immigration and Nationality Act,
8 U.S.C. § 1101(a)(15)(O)(i)

ON BEHALF OF PETITIONER:

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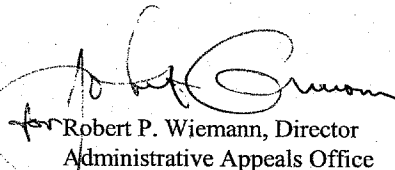
INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner, the United States Ski & Snowboard Association, is the National Governing Body of the United States Olympic Committee and is the official organization for sport skiing in the United States. The U.S. Ski Team is a part of the U.S. Ski and Snowboard Association. The beneficiary is a former ski racer and currently coaches alpine ski racers. The petitioner seeks O-1 classification of the beneficiary, as an alien with extraordinary ability in athletics under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), in order to employ him in the United States as an alpine ski coach for the United States national ski team for a period of three years at an annual salary of \$30,250.

The director denied the petition finding that the petitioner failed to establish that the beneficiary qualifies as an alien with extraordinary ability in athletics.

On appeal, counsel for the petitioner submits a statement and asserts that the beneficiary is an alien of extraordinary ability in the field of alpine ski coaching.

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability.

8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

Extraordinary ability in the field of science, education, business, or athletics means a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.

8 C.F.R. § 214.2(o)(3)(iii) states, in pertinent part, that:

Evidentiary criteria for an O-1 alien of extraordinary ability in the fields of science, education, business, or athletics. An alien of extraordinary ability in the fields of science, education, business, or athletics must demonstrate sustained national or international acclaim and recognition for achievements in the field of expertise by providing evidence of:

(A) Receipt of a major, internationally recognized award, such as the Nobel Prize; or

(B) At least three of the following forms of documentation:

(1) Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;

(2) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields;

(3) Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;

(4) Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;

(5) Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field;

(6) Evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media;

(7) Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;

(8) Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

(C) If the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility.

8 C.F.R. §214.2(o)(5)(i)(A) requires, in pertinent part:

Consultation with an appropriate U.S. peer group (which could include a person or persons with expertise in the field), labor and/or management organization regarding the nature of the work to be done and the alien's qualifications is mandatory before a petition for O-1 or

O-2 classification can be approved.

The beneficiary in this matter is a native and citizen of Norway. The record shows that the beneficiary was a member of the Norwegian National Ski Team during 1990 - 1995. In the years 1999 - 2000, he joined the Norwegian National Ski Team as a coach for the women's team. From 2000 through 2002, the beneficiary served as an assistant alpine ski coach at Williams College in Williamstown, Massachusetts.

The director noted that the petitioner relied solely on testimonials to establish the beneficiary's eligibility and that the evidence was insufficient to demonstrate that the beneficiary is among that small percentage who have risen to the very top of their field.

On appeal, counsel asserts that the criteria set out in 8 C.F.R. § 214.2(o)(iii)(B) are inapplicable to a ski team coach except that the beneficiary satisfies criterion number seven.

After a careful review of the record, it must be concluded that the petitioner has failed to overcome the grounds for denial of the petition. The record is insufficient to establish that the beneficiary is an alien with extraordinary ability as a ski coach.

First, there is no evidence that the beneficiary has received an award equivalent to that listed at 8 C.F.R. § 214.2(o)(3)(iii)(A). Nor is the record persuasive in demonstrating that the beneficiary met at least three of the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

The petitioner failed to submit evidence in relation to criterion number one. Some of the evidence on the record alludes to the beneficiary's receipt of awards for his performance as a ski racer, first as an amateur for the Norwegian Ski Federation and later as a professional ski racer on the World Pro Ski tour. The evidence is insufficient to establish that the beneficiary satisfies this criterion, but on motion the petitioner could submit objective evidence of the beneficiary's receipt of nationally or internationally recognized awards for excellence in his field of endeavor. The petitioner could also provide evidence that the beneficiary, as a coach, was instrumental in the success of ski team champions.

No evidence was submitted in relation to criterion number two. The petitioner asserts that this criterion does not readily apply to the beneficiary's occupation. The AAO concurs.

No evidence was submitted in relation to criterion number three, however a quick Internet search uncovered evidence of published material in major media about the alien relating to the alien's work in his field of endeavor. The evidence on the record does not satisfy this criterion, but on motion, the petitioner could submit such evidence.

No evidence was provided in relation to criteria numbers four, five, and six.

For criterion number seven, counsel for the petitioner asserts that the beneficiary satisfies this criterion because in the proffered position, the beneficiary would serve in a critical capacity (coach) for an organization with a distinguished reputation (U.S. Olympic Ski Team). The criterion requires evidence that the beneficiary has served in such a capacity. According to the record, the beneficiary served as an assistant coach to the women's team of the Norwegian Ski Federation and that the team won five World Cup podium finishes under his tutelage. The evidence is insufficient to establish that the beneficiary satisfies this criterion, but on motion, the petitioner could submit further evidence that the beneficiary served in a critical capacity for the Norwegian Ski Federation.

No evidence was provided in relation to criterion number eight.

Counsel for the petitioner asserts that the criteria at 8 C.F.R. § 214.2(o)(iii)(B) do not readily apply, and as comparable evidence submits a letter from the United States Olympic Committee indicating that it selected the beneficiary to serve as a coach based on his extraordinary ability in the field of athletics. While this evidence would bolster other evidence of extraordinary ability, the record contains no firsthand evidence of athletic or coaching achievements by the beneficiary or by athletes he has coached. This evidence is insufficient, without more, to establish eligibility for this restrictive visa classification, which requires extensive documentation of extraordinary achievement.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.

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